

Introduced by Senator Ducheny

February 26, 2009

An act to add Part 5.1 (commencing with Section 14460) to Division 3 of Title 2 of the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 409, as introduced, Ducheny. Department of Railroads.

Existing law creates the Department of Transportation in the Business, Transportation and Housing Agency, with various powers and duties relative to the intercity rail passenger program, among other transportation programs. Existing law creates the High-Speed Rail Authority, with various powers and duties relative to development and implementation of a high-speed passenger train system. Existing law creates the Public Utilities Commission, with various powers and duties relative to railroads, among other responsibilities.

This bill would create the Department of Railroads in the Business, Transportation and Housing Agency, and create the positions of director and deputy director within the department, to be appointed by the Governor, as specified. The bill would transfer to the department responsibility for various state railroad programs currently administered by the above-referenced agencies. The bill would specify new duties of the department relative to an analysis of the state's freight rail transportation system. The bill would provide that the department shall be the only state agency eligible to apply for and receive grant and loan funds from the federal government for intercity rail, high-speed rail, or freight rail purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California has a network of 5,488 miles of Class I railroads
4 and 1,409 miles of shortline and terminal railroads. On an annual
5 basis, 7,578,465 carloads of freight carrying 177,907,810 tons are
6 carried by these railroads. In addition, over 28 million intercity
7 and commuter rail passengers traveled in 2006 on tracks owned
8 by Class I railroads or on tracks owned by public agencies, over
9 which Class I railroads may operate.

10 (b) Over 47 percent of the containers used in the nation's foreign
11 trade either enter or leave the United States via the Ports of Long
12 Beach, Los Angeles, and Oakland. The dominance of California's
13 ports is due to (1) the proximity to Asia, (2) the fact that California,
14 with a growing population projected to reach 49 million in 2030,
15 is itself a major consumer market, and (3) because the railroad
16 infrastructure of the state is fully integrated into the national
17 railroad network. As a result of being the nation's port of entry,
18 the number of train miles in the state are increasing, resulting in
19 a greater intensity of use of railroad tracks, the reduction in some
20 cases of average speed, and the potential reduction in the
21 performance of passenger rail services in some corridors.

22 (c) California is the largest single state market for intercity
23 passenger rail travel in the country, with the three lines being
24 operated under contract to Amtrak carrying 42 percent of the
25 passengers that travel on the trains that Amtrak operates under
26 contract for California and 12 other states. In addition, the three
27 California corridors—the Pacific Surfliner in southern California,
28 the San Joaquins between the Bay Area/Sacramento and the San
29 Joaquin Valley, and the Capitol Corridor between the Bay Area
30 and Sacramento—carry nearly 20 percent of all Amtrak passengers.

31 (d) The railroad freight industry and the commuter and intercity
32 passenger railroads operating in California employ 15,000 people
33 in the state, with total wages of \$1,042,945,000 in 2005.

34 (e) California voters have recognized the importance of a
35 passenger rail system, including high-speed rail, for improving
36 mobility, addressing greenhouse gas concerns, and contributing
37 to improvements in air quality.

(f) It is in the public interest for California to create a Department of Railroads to work cooperatively with private firms and public agencies to ensure that the state's railroad infrastructure meets the commercial needs of California, including the interchange of freight between various modes of surface transportation, the provision of reliable passenger services in commuter and intercity corridors, and the deployment of a cost-effective high-speed train system.

SEC. 2. Part 5.1 (commencing with Section 14460) is added to Division 3 of Title 2 of the Government Code, to read:

PART 5.1. DEPARTMENT OF RAILROADS

CHAPTER 1. GENERAL

14460. There is within the Business, Transportation and Housing Agency a Department of Railroads. An undersecretary of the agency shall be assigned to give attention to rail matters.

14460.1. (a) The department is under the control of an executive officer known as the Director of Railroads. The director is appointed by the Governor, subject to confirmation by the Senate, and holds office at the pleasure of the Governor. The annual salary of the director shall be the same as provided for the Director of Transportation pursuant to Chapter 6 (commencing with Section 11550) of Part 1. The director shall perform all duties, exercise all powers and jurisdiction, assume and discharge all responsibilities, and carry out and effect all purposes vested by law in the department, except as otherwise expressly provided by law.

(b) There shall be within the department the position of Deputy Director of Railroads. The deputy director is appointed by the Governor, upon recommendation of the director, and shall serve at the pleasure of the director. The annual salary shall be fixed by the director in accordance with law. The deputy director shall have the duties that may be assigned to him or her by the director and shall be responsible to the director for the performance of those duties.

(c) As used in this part, the following terms shall have the following meanings:

(1) "Department" means the Department of Railroads.

(2) "Director" means the Director of Railroads.

(3) “Secretary” means the Secretary of Business, Transportation and Housing.

14460.2. For the purpose of administration, the director shall organize the department with the approval of the Governor and the secretary.

14460.3. The department may expend funds appropriated for the administration of laws and programs under the jurisdiction of the department. The expenditure of those funds shall be made in accordance with law in carrying out the work for which the appropriations were made.

CHAPTER 2. POWERS AND DUTIES

14461. (a) The department shall be responsible for all of the following programs:

(1) The intercity rail program and related matters (Sections 14031.6, 14031.7, 14031.8, and 14034 to 14040, inclusive). The department shall assume the duties of the Department of Transportation pursuant to Article 4 (commencing with Section 14060), Article 5 (commencing with Section 14070), Article 5.2 (commencing with Section 14072), Article 5.4 (commencing with Section 14074), and Article 5.6 (commencing with Section 14076) of Chapter 1 of Part 5.

(2) The High-Speed Rail Program (Division 19.5 (commencing with Section 185000) of the Public Utilities Code).

(3) The rail goods movement program (Article 9 (commencing with Section 7700) of Chapter 1 of Division 4 of the Public Utilities Code) and the rail portion of the goods movement programs currently administered by the Department of Transportation’s Office of Goods Movement and the Business, Transportation and Housing Agency. In connection with goods movement, the department, at least every two years, shall conduct an analysis of the state’s freight rail transportation system that considers its relationship to other modes of transportation and to commerce, assesses system performance, identifies future trends, and recommends system improvements. The director shall ensure that the activities associated with this analysis are coordinated with the freight railroad industry, other sectors of the logistics industry, commuter rail operators, applicable, federal agencies, seaports and airports, regional transportation planning agencies, and other

1 relevant public and private entities. The analysis shall identify
2 those improvements where public funding is appropriate and the
3 sources of public funding. Before preparing the analysis, the
4 department shall develop and publish for review a set of
5 performance indicators that it will use in the analysis. The
6 performance indicators shall include, but not be limited to, freight
7 rail transportation system connectivity, safety, and capacity within
8 California.

9 (4) The rail-highway grade crossing and rail-highway grade
10 separation programs (Chapter 6 (commencing with Section 1201)
11 and Chapter 6.5 (commencing with Section 1231) of Part 1 of
12 Division 1 of the Public Utilities Code, and Sections 190, 191, and
13 191.5 of, and Chapter 10 (commencing with Section 2450) of
14 Division 3 of, the Streets and Highways Code).

15 (5) Coordination of regional transportation planning efforts
16 throughout the state relative to rail transportation.

17 (b) Notwithstanding any other provision of law, the department
18 shall succeed to and be vested with all of the duties, powers,
19 purposes, and responsibilities with respect to the programs
20 identified in subdivision (a). Any reference to the Department of
21 Transportation or the Public Utilities Commission with respect to
22 those programs shall be deemed to refer to the department, unless
23 the context otherwise requires.

24 (c) The secretary shall convene a joint task force, cochaired by
25 the director and Director of Transportation, for the purpose of
26 resolving issues between their two departments relative to
27 overlapping jurisdiction.

28 14462. (a) The department shall be responsible for developing
29 a proposed budget. Any reference to budgetary duties of the
30 Department of Transportation or the Public Utilities Commission
31 relative to a funding source that supports programs that have been
32 transferred to the department pursuant to Section 14461 shall refer
33 to the department. The Department of Transportation or the Public
34 Utilities Commission shall cooperate with the department to ensure
35 a smooth transition. The Department of Transportation shall further
36 cooperate with the department relative to the programming process
37 for transportation funds that may be allocated to transportation
38 projects under the jurisdiction of either department, including, but
39 not limited to, interregional transportation program funds governed
40 by Section 14526 of this code and paragraph (1) of subdivision

1 (a) of Section 164 of the Streets and Highways Code. Funds
2 allocated under subdivision (f) of Section 99315 of the Public
3 Utilities Code shall be allocated to the department consistent with
4 the department's responsibilities.

5 (b) The department shall succeed to the responsibilities of the
6 Department of Transportation with respect to general obligation
7 bond funds made available for rail purposes under the Passenger
8 Rail and Clean Air Bond Act of 1990 (Part 11.5 (commencing
9 with Section 99600) of the Public Utilities Code), the Clean Air
10 and Transportation Improvement Act of 1990 (Chapter 17
11 (commencing with Section 2700) of Division 3 of the Streets and
12 Highways Code), and the Highway Safety, Traffic Reduction, Air
13 Quality, and Port Security Bond Act of 2006 (Chapter 12.49
14 (commencing with Section 8879.20) and Chapter 12.491
15 (commencing with Section 8879.50) of Division 1 of Title 2 of
16 this code).

17 (c) The department shall be the only state agency eligible to
18 apply for and receive grant and loan funds from the federal
19 government or other sources for intercity rail, high-speed rail, or
20 freight rail purposes. Responsibility for grants and loans made
21 available to the state prior to the enactment of this part shall be
22 transferred to the department.

23 14463. The California Transportation Commission shall
24 continue to be responsible for the programming of transportation
25 capital projects pursuant to Chapter 2 (commencing with Section
26 14520) of Part 5.3.

27 14464. The High-Speed Rail Authority shall be a division of
28 the department. The executive director of the authority shall report
29 to the director. The budget for the authority shall be developed by
30 the board of the authority in cooperation with the director.